

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES DERRICK O'NEAL,	:	CASE NO. 1:02CV 0357
Petitioner,	:	District Judge Sandra S. Beckwith
	:	Magistrate Judge Michael R. Merz
v.	:	
MARGARET BAGLEY, Warden	:	<u>PETITIONER'S MOTION FOR</u>
	:	<u>EXTENSION OF DISCOVERY CUT</u>
Respondent.	:	<u>OFF</u>

Now comes the Petitioner, by and through counsel, and hereby moves this Court for a one (1) month extension of the November 15, 2007 discovery cut off previously established in this case or until December 13, 2007. A Memorandum in support of this Motion is attached hereto and made a part hereof.

Respectfully submitted,

/s/ John J. Gideon
JOHN J. GIDEON (0008151)
(Trial Attorney)
1093 South Fourth Street
Columbus, Ohio 43206-2621
Phone: (614) 444-9906
Facsimile: (614) 444-1885

/s/ Michael W. Krumholtz
Michael W. Krumholtz, Attorney
Registration No. 0009099
BIESER, GREER & LANDIS LLP
400 National City Center
6 North Main Street
Dayton, Ohio 45402-1908
Telephone: (937) 223-3277

ATTORNEYS FOR PETITIONER

MEMORANDUM

_____By Order of August 9, 2007 this Court established a discovery cut off of November 15, 2007. In response to that Order, the Petitioner has taken the deposition of Kenneth Taylor on November 5, 2007. Mr. Taylor was the owner/landlord of the premises in which Carol O'Neal was living at the time of her death. Additionally, the Petitioner through the cooperation of deponent John T. Keller and opposing counsel had set Mr. Keller's deposition to take place on November 12, 2007 beginning at 1:30 p.m. Mr. Keller was co-trial counsel for Mr. O'Neal in the Hamilton County Common Pleas Court. Attached is a letter received from Mr. Keller on November 9, 2007 requesting a release from O'Neal in order to provide his deposition testimony. Petitioner is willing to provide Mr. Keller with the requested release. Unfortunately, the logistics created by Petitioner's confinement near Youngstown, Ohio require that his counsel send him the release via mail asking Mr. O'Neal to execute the document and then return it in an enclosed, self-addressed, stamped envelope. This requires that Mr. Keller's deposition be reset to a later date after the release has been signed and returned by Mr. O'Neal. It is counsel's expectation that this can be accomplished within one (1) month of November 15, 2007 and Mr. Keller's deposition can proceed within that extended time frame.

Mr. Maher has graciously agreed to this extension on behalf of the Respondent.

For these reasons, Petitioner asks the Court to extend the discovery cut off date now set in this case for November 15, 2007 to December 13, 2007.

Respectfully submitted,

/s/ John J. Gideon

JOHN J. GIDEON (#0008151)

1093 South Fourth Street

Columbus, Ohio 43206-2621

Tel: (614) 444-9906

Fax: (614) 444-1885

/s/ Michael W. Krumholtz

Michael W. Krumholtz (#0009099)

BIESER, GREER & LANDIS LLP

400 National City Center

6 North Main Street

Dayton, Ohio 45402-1908

Tel: (937) 223-3277

Fax: (937) 223-6339

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was electronically filed and served to Stephen E. Maher, Assistant Attorney General, Capital Crimes Section, 30 East Broad Street, 23rd Floor, Columbus, Ohio 43215-3428, by e-mail and regular U.S. Mail on this 13th day of November, 2007.

/s/ Michael W. Krumholtz

Counsel for James Derrick O'Neal

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